

FINAL BILL REPORT

ESHB 1623

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Synopsis as Enacted

Brief Description: Concerning fees for easements on state-owned aquatic lands.

Sponsors: By House Committee on Technology, Energy & Communications (originally sponsored by Representative Morris).

House Committee on Technology, Energy & Communications
Senate Committee on Natural Resources, Ocean & Recreation

Background:

State Aquatic Lands.

The Department of Natural Resources (DNR) is responsible for managing state-owned aquatic lands for the benefit of the public. The DNR manages over 2 million acres of tidelands, shorelands, and beds of navigable rivers and lakes, along with the beds below the Puget Sound. The management of state-owned aquatic lands must support a balance of goals, including the encouragement of public access, the fostering of water-dependent uses, the utilization of renewable resources, environment protection, and the generation of revenue.

Right-of-Way for Public Utility Lines.

The DNR may grant a right-of-way over or through state-owned aquatic lands for public utility lines. Public utility lines mean pipes, conduits, and similar facilities for distribution of water, electricity, natural gas, telephone, other electronic communication, and sewers.

Direct Administrative Costs.

The DNR may recover from governmental and non-governmental entities its direct administrative costs incurred in processing and reviewing such requests, and in reviewing construction plans. Direct administrative costs means the cost of hours worked directly on an application or request, based on salaries and benefits, plus travel reimbursement and other actual out-of-pocket costs.

Non-Governmental Easement Crossing Charge.

In addition to its direct administrative costs, the DNR may recover from non-governmental entities a charge for each individual easement crossing, based on the length of the easement.

For public utility lines owned by a non-governmental entity, easement charges are as follows:

- \$5,000 for easement crossings up to one mile;
- \$12,500 for crossings between one and five miles; or
- \$20,000 for easement crossings more than five miles.

The easement term is 30 years, with easement charges adjusted annually based on the increase in the consumer price index.

The rate structure for non-governmental entities expires July 1, 2008.

Application Process.

The DNR must make a final decision on easement applications within 120 days after receiving the application and after the applicant has acquired all applicable permits. At the request of an applicant, the DNR may process the application within 60 days and charge an expedited processing fee. The processing fee is the greater of: 10 percent of the combined total of the easement crossing charge and direct administrative costs; or the cost of staff overtime, calculated at a rate of time and a half, associated with expedited processing.

State-Owned Aquatic Land Revenues.

All revenues generated from state-owned aquatic lands are deposited into either the Resource Management Cost Account (RMCA) or the Aquatic Lands Enhancement Account (ALEA), depending on the type of land on which the activity occurs. For beds of navigable rivers and lakes, and beds below the Puget Sound, the revenues are divided evenly between the two accounts. For all other state-owned aquatic lands, 75 percent of revenues are deposited into the ALEA and 25 percent are deposited into the RMCA.

Resource Management Cost Account.

The RMCA was created for the purpose of defraying the costs and expenses incurred by the DNR in managing and administering state lands and aquatic lands and the making and administering of leases, sales, contracts, licenses, permits, easements, and rights-of-way. Appropriations from the RMCA to the DNR must be expended for no other purposes.

Aquatic Lands Enhancement Account.

The ALEA was established to ensure that money generated from aquatic lands is used to protect and enhance those lands. Funds must be used for: aquatic lands enhancement projects; for the purchase, improvement, or protection of aquatic lands for public purposes; for providing and improving access to the lands; and for volunteer cooperative fish and game projects.

Summary:

Administrative Costs Recovery.

For public utility lines owned by non-governmental entities, the DNR may recover administrative costs equal to 20 percent of the non-governmental easement crossing charge. For government entities, the DNR may recover an amount based on what the easement crossing charge would have been if the entity was subject to the charge. Where a single easement authorizes multiple utility lines, the administrative fee is based on the easement charge for the single longest line. When multiple public utility lines are owned by the same entity and are authorized under the same easement, the administrative charge for the easement crossing is equal to 20 percent of the easement fee for the single longest public utility line.

Term of Easement.

The DNR may provide a term of easement for a period of less than 30 years, if requested by the person or entity seeking the easement.

Expedited Permitting.

The fee for an expedited processing of an application is 10 percent of the combined total of the easement crossing charge plus administrative costs.

Termination Date.

The DNR's statutory authority to recover administrative costs expires on July 1, 2017.

Legislative Review.

By December 31, 2016, the Legislature must review whether the DNR is processing easement applications within required time limits, and whether the granting of public utility line easements generates reasonable income for the ALEA.

Votes on Final Passage:

House	94	0
Senate	48	1

Effective: June 12, 2008